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BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A REVISED )  
SUBSTANTIAL DEVELOPMENT PERMIT )  
GRANTED BY CITY OF SEATTLE TO )  
JOHN M. ROCK )

ROBERT G. GIES, )

Appellant, )

v. )

CITY OF SEATTLE and JOHN )  
M. ROCK, )

Respondents. )

SHB No. 77-10

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

PER ROBERT E. BEATY:

This appeal is a request for review of a revision to a shoreline substantial development permit granted by the City of Seattle to John M. Rock. The matter was heard before the Shorelines Hearings Board, Robert E. Beaty (presiding), Chris Smith, Dave J. Mooney, Rod Kerslake, and Arden A. Olson, in Seattle, Washington, on May 4, 1977.

Appellant Robert G. Gies appeared pro se as did respondent John

1 M. Rock. The City of Seattle was represented by Mark Schlosser of the  
2 Office of Community Development, the city attorney having withdrawn.

3 From testimony heard, exhibits examined, and arguments made, the  
4 Shorelines Hearings Board makes these

5 FINDINGS OF FACT

6 I

7 An application by John M. Rock for a substantial development permit  
8 to build a single family residence at 14328 Edgewater Lane N.E. was  
9 received by the City on June 28, 1974, and approved September 23, 1974,  
10 following a declaration of no significant impact on the environment  
11 issued on August 30, 1974, pursuant to the State Environmental Policy  
12 Act. On March 3, 1977, an application for revision of the permit in  
13 question was received by the City and the revision authorized on  
14 March 4, 1977. The scope of this revision is discussed below.

15 II

16 The original permit (Exhibit A-1) granted authority to build a single  
17 family residence to Mr. Rock on a lot 75 feet wide by 80 feet deep in a  
18 RS 5000 Zone. The land portion of the lot adjoins a public right of  
19 way and is only 10 feet deep, requiring overwater construction for a  
20 project of any significance. Homes on both sides of the subject lot are  
21 generally built over water for this reason; the area is well developed  
22 with similar homes to the north and south of the subject property.

23 III

24 The sketch submitted by Mr. Rock with his permit application  
25 indicated plans for a rectangular building not to exceed 30 feet in  
26 height with overwater coverage of approximately 2,483 square feet,  
27 including a six foot deck. The original proposal would have set the

1 landward building line 10 feet in from the western property line; the  
2 roof of the building would have extended 32 feet lakeward and the walls  
3 would have been set in three feet from the roof line, putting the outer-  
4 most wall of the house 29 feet lakeward. The roof line north and south  
5 would be 60 feet and the walls 54 feet (assuming an even roof overhang).

#### 6 IV

7 The revised permit allows a house to be built which is smaller in  
8 several respects, the farthest wall of which extends two feet further  
9 lakeward. As stated in the revised permit (Exhibit A-1):

- 10 1. The shape of the revised building is irregular, with the  
11 second floor area reduced in size by 9' in width. The  
12 second floor roof has been held back 2' closer to the  
west. These changes to the second floor have created  
more open space by reducing the volume of the building.
- 13 2. The building height above the first floor has been held  
4 down to 22' to 23' instead of going up to the 30' height  
originally proposed.
- 15 3. The first floor extends 2' into the originally proposed  
16 deck area on the East side by a width of 33'-3". This  
area is approximately in the center of the lot.
- 17 4. Side yard revisions: The building line is 6" closer to the  
18 North property line. The North building wall has been  
pulled back 6" to a distance of 6'6" from the East line to  
19 compensate. The South building line is 2' closer to the  
South property line but the South building wall has  
20 been pulled back an additional 10' from the original  
proposal, on the east end opening up the Southeast  
21 corner and preserving the sight lines from the South  
adjoining property.
- 22 5. The distance to the East edge of the deck from the west  
23 property line remains the same as the original proposal.

24 In addition, the overwater coverage is reduced by these plans to  
25 2,312 square feet. The irregular shape of the revised building has  
26 enhanced neighbors' views somewhat by in effect cutting off the southeast  
corner of the proposed rectangle and reducing the size of the second floor.

FINAL FINDINGS OF FACT,

S F No 9928-A

CONCLUSIONS OF LAW AND ORDER

V

The house as built does not intrude substantially into the view of the house adjacent to the south insofar as there is an outbuilding extending beyond the main house between the adjacent house and the subject building. The view from the Gies property is impaired only from the dock on the lakeside of the house. The Rock house is not visible from the Gies house because of pre-existing obstructions. When one views the Rock house from the Gies dock, appellant estimates the 180° view is reduced by no more than 10°.

VI

Any Conclusion of Law hereinafter cited which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings the Shorelines Hearings Board comes to these

CONCLUSIONS OF LAW

I

The Shorelines Hearings Board has jurisdiction of the parties and of the subject matter of this hearing.

II

Pursuant to the Pre-Hearing Order in this matter the only issue before the Board in this appeal is whether the proposed revision is beyond the scope and intent of the original permit because the revised center portion of the house wall extends further into the water than described in the original permit. It is also contended that the revision creates a view blockage or impairment and sets a precedent for future view blockage or impairment along the lake shore.

III

Applying the rules on "scope and intent" developed by this Board in

1 past cases, and the applicable regulations (WAC 173-14-064)<sup>1</sup> the revision

2

3 1. REVISIONS TO SUBSTANTIAL DEVELOPMENT PERMITS. When an applicant  
4 seeks to revise a substantial development permit, local government shall  
5 request from the applicant detailed plans and text describing the  
6 proposed changes in the permit.

7 (1) If local government determines that the proposed changes are  
8 within the scope and intent of the original permit, local government  
9 shall approve a revision.

10 (2) "Within the scope and intent of the original permit" shall be  
11 construed to mean the following:

12 (a) No additional over water construction will be involved;

13 (b) Lot coverage and height may be increased a maximum of ten  
14 percent (10%) from the provisions of the original permit: PROVIDED,  
15 That revisions involving new structures not shown on the original site  
16 plan shall require a new substantial development permit, and: FURTHER  
17 PROVIDED, That any revisions authorized under this subsection shall not  
18 exceed height, lot coverage, setback or any other requirements of the  
19 master program for the area in which the project is located. Landscaping  
20 may be added to a project without necessitating an application for a new  
21 substantial development permit: PROVIDED, That the landscaping is  
22 consistent with conditions (if any) attached to the original permit and is  
23 consistent with the master program for the area in which the project is  
24 located.

25 (c) No additional significant adverse environmental impact will be  
26 caused by the project revision.

27 (3) If the revision will violate the terms of one or more of the  
28 provisions in (2) above, local government shall require that the applicant  
29 apply for a new substantial development permit in the manner provided for  
30 herein.

31 (4) The revised permit shall become effective immediately. Within  
32 eight (8) days of the date of final local government action the approved  
33 revision shall be submitted to the appropriate Department of Ecology  
34 regional office and the attorney general for the completion of their files.  
35 In addition, local government shall submit the revised site plan, text  
36 and the approved revision to persons who have notified local government  
37 of their desire to receive a copy of the action on a permit pursuant to  
38 WAC 173-14-070. Appeals shall be in accordance with RCW 90.58.180 and  
39 shall be filed within 15 days from the date of receipt of the local  
40 governments action by the Department of Ecology regional office. Appeals  
41 shall be based only upon contentions of noncompliance with the provisions  
42 of 2(a)(b)(c) above. Construction undertaken pursuant to that portion of  
43 a revised permit not authorized under the original permit shall be at  
44 the applicants own risk until the expiration of the appeals deadline. If  
45 an appeal is successful in proving that a revision was not within the  
46 scope and intent of the original permit, it shall have no bearing on the  
47 original permit.

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27 FINAL FINDINGS OF FACT,  
28 CONCLUSIONS OF LAW AND ORDER

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1 granted the respondent can be seen to be well within the scope and  
2 intent of this permit.

3 The "intent" of a permit is construed to be the type of land use  
4 authorized (Richard E. Goodman v. City of Spokane and City of Spokane  
5 Parks and Recreation Dept., SHB No. 214; Department of Ecology and  
6 Attorney General v. Island County and Nichols Brothers Boat Builders, Inc.,  
7 SHB No. 216).

8 The use contemplated in the original permit, a single family  
9 residence, has not changed. The "scope" of the permit relates to the  
10 area and volume of the substantial development. The revised permit  
11 conforms to the guidelines at the time of application and to the more  
12 stringent current standard.

13 The two foot extension in this case does not impair the view from  
14 any residence. The appellant himself estimates that at most 10° of his  
15 180° view is blocked from that portion of his dock where he can see  
16 the residence in question. This seems to us a de minimus intrusion.  
17 We note further that the Rock house does not appear to intrude  
18 significantly farther than adjoining development.

19 Thus we rule that the development in question is within the scope  
20 and intent of the original permit.

21 IV

22 Any Finding of Fact which should be deemed a Conclusion of Law  
23 is hereby adopted as such.

24 From these Conclusions the Shorelines Hearings Board enters this

25 ORDER

26 The revised permit (SMA 220) of the City of Seattle issued on

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER

1 March 4, 1977, is hereby affirmed.

2 DATED this 27<sup>th</sup> day of May, 1977.

3 SHORELINES HEARINGS BOARD

4 *Robert E. Beatty*  
5 ROBERT E. BEATY, Member

6 *Rod Kerslake*  
7 ROD KERSLAKE, Member

8 *Arden A. Olson*  
9 ARDEN A. OLSON, Member

10 *Dave J. Mooney*  
11 DAVE J. MOONEY, Member

12 *Chris Smith*  
13 CHRIS SMITH, Member

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27 FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER